

§ 105-502. Use of additional tax revenue by counties.

(a) Restriction. - The county must use sixty percent (60%) of the amount of revenue specified in this subsection for public school capital outlay purposes as defined in G.S. 115C-426(f) or to retire any indebtedness incurred by the county for these purposes during the period beginning five years prior to the date the taxes took effect:

- (1) The amount of revenue the county receives under this Article.
- (2) If the amount allocated to the county under G.S. 105-486 is greater than the amount allocated to the county under G.S. 105-501(a), the difference between the two amounts.

(b) Exception. - The Local Government Commission may, upon petition by a county, authorize a county to use part or all of the revenue, otherwise required by subsection (a) to be used for public school capital outlay purposes, for any lawful purpose. The petition must be in the form of a resolution adopted by the Board of County Commissioners and transmitted to the Local Government Commission. The petition must demonstrate that the county can provide for its public school capital needs without restricting the use of part or all of the specified revenue for these purposes.

In making its decision, the Local Government Commission must consider information in the petition concerning not only the public school capital needs but also the other capital needs of the petitioning county. The Commission may consider information from sources other than the petition. The Commission must issue a written decision on each petition stating the findings of the Commission concerning the public school capital needs of the petitioning county and the percentage of revenue otherwise restricted by subsection (a) that may be used by the petitioning county for any lawful purpose.

Decisions of the Commission allowing counties to use a percentage of the revenue that would otherwise be restricted under subsection (a) for any lawful purpose are final and continue in effect until the restrictions expire. A county whose petition is denied, in whole or in part, by the Commission may subsequently submit a new petition to the Commission.

(c) Reserve Fund. - A county may expend part or all of the revenue restricted for public school capital needs pursuant to subsection (a) in the fiscal year in which the revenue is received, or the county may place part or all of this revenue in a capital reserve fund. A county must specifically identify revenue placed in a reserve fund in accordance with Chapter 159 of the General Statutes.

(d) Taxes in Effect. - For purposes of this section in determining the number of fiscal years in which one-half percent (1/2%) sales and use taxes levied under this Article have been in effect in a county, these taxes are considered to be in effect only from the effective date of the levy of these taxes and are considered to be in effect for a full fiscal year during the first year in which these taxes were in effect, regardless of the number of months in that year in which the taxes were actually in effect. (1985 (Reg. Sess., 1986), c. 906, s. 1; 1987, c. 622, s. 11; 1993, c. 255, ss. 2, 4; 1998-186, s. 2; 2008-134, s. 13(a); 2009-395, s. 2.)